

**BOARD OF ENVIRONMENTAL PROTECTION  
Meeting Minutes**

May 19, 2005

A meeting of the Board of Environmental Protection was held on Thursday, May 19, 2005, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 1:00 p.m. with the following individuals present:

**Board:** Nancy Anderson, Irving Faunce, Ernest Hilton, Donald Guimond, Virginia Plummer, Matt Scott, Richard Wardwell, and Nancy Ziegler

Absent: Jean T. Wilkinson

**Staff:** Bureau of Land and Water Quality  
Bureau of Land and Water Quality

Mike Mullen  
Linda Kokemuller

**Others:** Dawn R. Gallagher, Commissioner  
David P. Littell, Deputy Commissioner  
Peggy Bensinger, Assistant Attorney General  
Cynthia Bertocci, Executive Analyst  
Terry Hanson, Administrative Assistant

***(Meeting adjourned at approximately 2:30 p.m.)***

**I. DEPARTMENTAL**

**A. COMMISSIONER'S COMMENTS:** Deputy Commissioner David Littell reported the following:

BEP Membership: The two new Board members were approved by the Senate last week and will be sworn in the week of June 13<sup>th</sup>. It is anticipated that they will officially join you at the June 16<sup>th</sup> regular meeting.

Gulf Island Pond: The Natural Resources Committee voted unanimously to issue licenses and consent agreements to allow the temperature for dissolved oxygen to be raised on the Androscoggin River. The details of the licenses and final language for the Total Maximum Daily Loads (TMDL) are being drafted by the Department and EPA respectively and will be subject to public comment. The TMDL is also pending approval by US EPA.

Board member Nancy Anderson asked if the Department had an idea whether EPA would approve the TMDL

*Deputy Commissioner Littell responded that the Department does anticipate EPA approval. Mr. Littell further stated that he has not been involved with this issue and that Commissioner Gallagher would be available later today to address any additional questions from Board members.*

Wolman Steel: The Department found PCB contamination this spring. DEP staff is currently measuring the extent of contamination and has increased the fenced area to protect the public. Additionally, because of the increased contamination the clean up cost will exceed earlier projections and the Department's available funding sources; therefore, DEP is seeking funds from EPA.

Electronic Waste: The Department is planning to brief the Board in more detail regarding the proposed electronic waste rules. Nationally, Maine and California are the only two states initiating this type of rule. California's rule established an advance recovery fee at the time of purchase. Maine's draft rule will propose a responsibility system based on product stewardship principles requiring manufacturers to either fund recovery or implement their own collection system.

Legislative: The Natural Resources Committee supported the Clean Car bill with a unanimous vote out of Committee. The bill is currently on the floor of both houses.

Onmibus Bill: The Natural Resources Committee voted unanimously on this with some language changes.

Bangor Hydro Transmission Line: The Department received the application for the Bangor Hydro Transmission Line on May 10<sup>th</sup>. Staff has until May 31<sup>st</sup> to review the 6 binder application and determine if it is acceptable for processing. A Department finding that the application is complete for processing will begin the 20-day timeframe for individuals to petition the Board for jurisdiction. At the conclusion of all timeframes, the Department will provide a briefing on this project.

Petitions for BEP Jurisdiction: Commissioner Gallagher received a request for BEP jurisdiction over a storm water application for the Tiger Hill Estates subdivision in Oxford. This is a standard storm water application therefore the preliminary determination by the Commissioner was to deny the request. A second request was received regarding the Marion Transfer; however, the Department has not received an application for this project and will track this matter for future evaluation. Staff anticipates this application will be filed in the fall of 2005.

Questions:

Board member Richard Wardwell asked how the Old Town hearing on the GP biomass boiler went.

*The Deputy Commissioner responded that DEP staff attending the hearing indicated that the issues were heard thoroughly. Staff particularly noted that the overall tone was not contentious or negative. Commissioner Gallagher will make a decision following a recommendation from the presiding officer.*

Board member Plummer asked about the availability of transcripts.

*Mr. Littell indicated that the Department would follow up on this request after consultation with the Attorney General's office regarding the appropriateness of distributing any transcripts in advance of the deadline for any appeal likely to be filed with the Board in that matter.*

**B. CHAIRMAN'S COMMENTS:** This represents my last regular meeting until the IFW decision is back on the Board's agenda in August.

**C. EXECUTIVE ANALYST COMMENTS:** None

**D. BOARD CALENDAR:** Reviewed

**E. DEPARTMENTAL ORDERS:** Reviewed

**F. EXECUTIVE SESSION:** None

## **II CONSENT AGENDA ITEMS**

**1. MINUTES BEP Meeting, March 3, 2005 (approval)**

The Board voted (8-0-0-1) on a motion to approve as presented.

*Board members Nancy Anderson, Don Guimond, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, and Nancy Ziegler voted to support the motion. Board member Jean T. Wilkinson was absent.*

**2. MINUTES BEP Meeting, March 17, 2005 (approval)**

The Board voted (6-0-2-1) on a motion to approve as presented.

*Board members Nancy Anderson, Don Guimond, Irving Faunce, Ernest Hilton, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Matt Scott and Richard Wardwell voted to abstain. Board member Jean T. Wilkinson was absent.*

3. MINUTES BEP Meeting, April 21, 2005 (approval)  
The Board voted (8-0-0-1) on a motion to approve as presented.  
*Board members Nancy Anderson, Don Guimond, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, and Nancy Ziegler voted to support the motion. Board member Jean T. Wilkinson was absent.*
4. GOOSEFARE ACRES LTD, INC. – Saco - Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
5. GAIL SABINO – Shapleigh – Administrative Consent Agreement (BLWQ – Land)  
The Board voted (8-0-0-1) on a motion to approve as presented consent agenda items 4 and 5.  
Board members Nancy Anderson, Don Guimond, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell, and Nancy Ziegler voted to support the motion. Board member Jean T. Wilkinson was absent.

### III. Regular Agenda

1. CHAPTER 143, NEW SOURCE PERFORMANCE STANDARDS (NSPS) / AMENDMENT AND CHAPTER 144, NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) / AMENDMENT (adoption\*)  
Staff: Deb Avalone-King, Bureau of Air Quality

The Board voted (8-0-0-1) on a motion to adopt amendments to Chapter 143, New Source Performance Standards (NSPS) as presented. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D, 585A, 585B, and 590 and the 1990 Clean Air Act Amendments.

*Board members Nancy Anderson, Don Guimond, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell and Nancy Ziegler voted to support the motion. Board member Jean T. Wilkinson was absent.*

The Board voted (8-0-0-1) on a motion to adopt amendments to Chapter 144, National Emission Standards for Hazardous Air Pollutants (NESHAP) as presented. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D, 585A, 585B, and 590 and the 1990 Clean Air Act Amendments.

*Board members Nancy Anderson, Don Guimond, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell and Nancy Ziegler voted to support the motion. Board member Jean T. Wilkinson was absent.*

2. STEVE ALLEY / PERMIT BY RULE # 36762 (appeal by Robert H. Newding)

Staff: Mike Mullen, Bureau of Land & Water Quality

The Board voted (8-0-0-1) on a motion to table consideration of the merits of the appeal submitted by Robert Newding in order to: a) allow time to evaluate the new evidence (1997 Aerial Photo and email from M. Loiselle); b) allow the licensee to respond to the new evidence, and c) allow the Department staff to modify the draft proposed order to include the new evidence. The motion further established May 27, 2005 as the deadline for Steve Alley to provide written comments on the new evidence. The vote was taken pursuant to 38 M.R.S.A. Section 341-D, 06-096 CMR Chapter 2.

*Board members Nancy Anderson, Don Guimond, Irving Faunce, Ernest Hilton, Virginia Plummer, Matt Scott, Richard Wardwell and Nancy Ziegler voted to support the motion. Board member Jean T. Wilkinson was absent.*

**WORK SESSION**

Procedure Discussion / Board Jurisdiction

***Next Regular Board Meeting – Thursday, June 2, 2005 – Holiday Inn / Ground Round, Augusta***